



# Competition

**Michael L. Benavides**  
**Senior Procurement Analyst**  
**February 20, 2008**  
**Defense Acquisition Regulations System**  
**703-602-1302**  
[Michael.Benavides@osd.mil](mailto:Michael.Benavides@osd.mil)  
<http://www.acq.osd.mil/dpap/dars/>





## **2007-008 Limiting Length of Noncompetitive Contracts in "Unusual and Compelling Urgency" Circumstances**

- ▶ **Type: Proposed rule was published at 73 FR 5784 on January 31, 2008**

**Public comment period closes March 31, 2008.**

- ▶ **Source: Office of Federal Procurement Policy (OFPP) in a May 31, 2007 memorandum "Enhancing Competition in Federal Acquisition"**
- ▶ **Synopsis of rule:**
  - **Period of performance shall not exceed the minimum period necessary for meeting the unusual or compelling urgency requirements but no longer than one year unless a longer period of performance is approved by the HCA**
  - **This rule implements a contract period limitation under FAR Part 6.302-2**
  - **Approval of a contract period of performance longer than one year is in addition to J&A requirements at 6.304**



# 2007-D005 Commercial Item Determinations

- ▶ **Type: Final rule published January 24, 2008 at 73 FR 4114**
- ▶ **Source: DoDIG Report, Project D-2006-115 “Commercial Contracting for the Acquisition of Defense Systems” and DPAP Memorandum “Commercial Item Determinations” dated March 2, 2007**
  - **Commercial Item Determinations should be made in writing and become part of the official contract file.**
  - **Fully documenting the market research and rationale supporting the conclusion that commercial item meets definition at FAR 2.101.**
- ▶ **Synopsis of rule:**
  - **This DFARS change requires the contracting officer to document, in writing and in the contract file, their determination that the commercial item definition has been met, for all acquisitions using FAR Part 12 that exceed \$1 million.**
  - **Additional PGI language at DFARS 212 provides guidance on some of the topics to consider when making such determination.**





# **2007-D019 “Functions Exempt from Private Sector Performance”**

- ▶ **Type: Final rule. Published at 73 FR 1826 on January 10, 2008.**
- ▶ **Source: Public Law 109-163 Section 343(a)(2)(B) dated January 6, 2006**
- ▶ **Synopsis of DFARS rule:**
  - **Expands FAR 7.503(e) language into DFARS 207.503 requiring requirements officials to provide a determination, with each statement of work submitted to the contracting officer, that none of the functions to be performed are inherently governmental to include the words: “...or exempt from private sector performance consistent with guidance in DoD Instruction 1100.22**
  - **Requires DoD personnel to prepare the determination using DoD Instruction 1100.22, Guidance for Determining Workforce Mix and also include a determination that none of the functions to be performed are exempt from private sector performance as addressed in the DoD Instruction 1100.22**